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## Letter Ruling 87-12: Data Processing Services

September 28, 1987

You request a ruling for the ("Corporation") that a number of data processing services rendered by a wholly owned subsidiary ("Subsidiary") for ("Bank") and its constituent banks are not subject to sales tax.

The Corporation, a bank holding company within the meaning of the Bank Holding Company Act of 1956 (12 U.S.C. SS 1841 et seq.), has as its subsidiaries numerous national and state banks, of which its lead bank is the Bank. Currently, the Bank performs data processing services for itself and other constituent banks at a central data processing center located in Massachusetts. The Corporation plans to restructure its data processing services operation by creating a wholly-owned Subsidiary which will perform all data processing services currently rendered by the Bank. The creation of the Subsidiary is merely incidental to the delivery of the data processing services, and the tax consequences of the creation of the Subsidiary itself are not the subject of this request.

The Subsidiary will operate from a processing center located in Massachusetts, but not at the Corporation's main offices. The Subsidiary will perform data processing services for the Corporation, its constituent banks and their branches, and perhaps non-bank subsidiaries. Each subscribing entity will have a separate contract with the Subsidiary and will pay a fee to the Subsidiary. The fee will be based on the aggregate number of transactions processed for the subscriber and the amount of time the subscriber used the central computer. Subscribers will own terminals and equipment with which they will use the Subsidiary's central computer.

Nearly all data entry will be performed by the Subsidiary. It may be possible for subscribers to make limited entries to customer account records stored on the central computer from their own terminals located at the subscribing banks, premises. This type of entry, however, will be made only for limited purposes, such as to correct the spelling of names and addresses of account holders or to place "holds" on the balances of individual customer accounts in the case of large withdrawals.

The subscribing banks will provide data to the Subsidiary in both human-readable and machine-readable form. This will include processed checks, bank transaction records on magnetic tape, and other customer account records generated at each bank or branch. The output from the Subsidiary will be transferred to banks and their customers in two ways: (1) by telephone line connection for display on computer terminals at subscribing banks with the capacity to print-out customer account transaction histories at the bank, and (2) by printing and mail services originating at the Subsidiary.

1. You ask whether the following data processing services rendered by the Subsidiary to the subscribing banks are exempt from the sales tax.
  2. The preparation and mailing by the proposed Subsidiary of monthly customer account statements.
  3. The Subsidiary's verification, processing, and encoding of checks and customer account entries, including processing customer records received on magnetic tape from automatic teller machines.
  4. The Subsidiary's entering of customer account transaction records on the Subsidiary's central computer.
- The providing to subscribing entities access to a central computer program capable of showing

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the current status of each bank customer's account, displayed on terminals owned and operated by the subscribing entities and connected by telephone lines to the main data processing central computer.

5. The transmission of data by telephone lines for the printing of customer account records on printers located at the subscribing banks.

We conclude that the five data processing services listed are not subject to the Massachusetts sales tax.

1. The preparation and mailing by the proposed Subsidiary of monthly customer account statements for a consideration is not subject to Massachusetts sales tax.

The preparation and mailing of bank customer monthly account statements, pursuant to a contract with a subscribing bank for the use of the Subsidiary's data processing equipment, is exempt from the sales tax pursuant to 830 CMR 64H.06(11). The service constitutes the processing of customer-furnished data, the output of which is in human-readable form. Id.

Processing of customer-furnished data is defined as the developing of original information from raw data furnished by the customer. Examples provided by the regulation include summarizing, computing, extracting, sorting, sequencing and updating a continuous file of information. Id. Since the customer account statements to be prepared and mailed by the Subsidiary will be summaries of raw data provided by the subscribing banks in the form of checks, transaction records, and the like, the service will be within the definition of "processing customer-furnished data." Since the output of this processing will be in human-readable form, that is, the printed monthly statement, the service is not subject to tax according to the regulations.

2. The Subsidiary's verification, processing and encoding of checks, and customer account entries, including processing customer records received on magnetic tape from automatic teller machines, for a consideration is not subject to Massachusetts sales tax.

The customer account processing services to be offered by the Subsidiary are not subject to sales tax. Like the preparation and mailing of monthly account statements, this service is the processing of customer-furnished data, the output of which is in human-readable form. The Subsidiary will produce original information in the form of balance summary statements from raw data received from banks and their customers in the form of canceled checks, other account inclearings and automatic teller transaction records. This type of service is a "processing of customer-furnished data" under the regulation exempting "service bureaus" from sales and use tax in the processing of customer-furnished data, provided their output is in human-readable form. 830 CMR 64H.06(11).

The Subsidiary's output will be transferred to the subscribing banks using computer terminals connected by telephone lines. Employees of the subscribing banks will be able to read on the terminal screens the data produced. The Department has specifically held that this form of transfer of information over telephone lines is not subject to the sales or use tax. L.R. 84-12. Thus, this aspect of the service is not subject to tax.

3. The Subsidiary's entering of customer account transaction records on the Subsidiary's central computer as part of a data processing contract will not be subject to Massachusetts sales tax.

The input of customer account data by the Subsidiary's employees does not subject the service to tax. Customer account entries on the Subsidiary's computer program are made almost exclusively by Subsidiary employees. This input is merely one step in the tax-free processing of customer-furnished data. According to the Department's data processing regulations, the punching or input of data is taxable only if it is the sole service provided under a contract. It is not taxable when performed as a step in processing a client's data. 830 CMR 64H.06(7). The Subsidiary will provide data processing services well beyond simple keypunching or data conversion. These functions will be mere steps in processing customer-furnished data and therefore not subject to tax.

4. The providing to subscribing entities access to a central computer program capable of showing the current status of each bank customer's account, displayed on terminals owned and operated by the subscribing entities and connected by telephone lines to the main data processing central computer, will not be subject to Massachusetts sales tax.

The Subsidiary will provide subscribing bank employees access to customer accounts on terminals located at the local subscribing bank office. The fee charged for such access is not taxable since the service constitutes tax free "time sharing" or "remote processing activity," which involves no

"operation" of equipment by subscribers. See 830 CMR 64H.06(5). According to the Department's regulations, a transaction whereby a person secures access by means of telephone or other lines to equipment not on his premises is not subject to tax unless the person or his employees "operate" the equipment or direct and control the operation while on the premises where the equipment is located. Id. Under the Corporation's plan, this service, which will be one basis for the Subsidiary's charges to banks, will not constitute the "operation" of the data processing equipment subject to tax under the regulations. In the proposed transaction, subscribing banks will own the computer terminals they use, and charges will be imposed only for the access to information on the Subsidiary's main computer. See L.R. 84-24 (allocations of charges for the retrieval of information from the main computer were not subject to tax, provided that the separate charges between terminal use and access were made in good faith). Thus, no sales or use tax will be imposed on the terminal access charges.

Furthermore, when subscribing banks themselves occasionally input to the main computer information, such as the names and addresses of account holders and major transactional notations, this activity is not the kind of activity necessary to find that the employees of subscribing banks "operated" the data processing equipment for the purposes of the regulations. In Letter Ruling 84-31, the Department ruled that the input of data at remote stations by a subscriber to a computer program capable of making economic forecasts did not constitute the operation of data processing equipment for the purposes of the regulation. Cf. L.R. 83-27 (customers' payments for privilege of using center's terminals on premises to access and give commands to the center's central computer ruled taxable).

5. The transmission of data by telephone lines for the printing of customer account records on printers located at the subscribing banks will not be subject to Massachusetts sales tax.

The transmission of data by telephone line for printing of customer account records at printers located on subscribing banks, premises is not subject to tax. Such a service constitutes the processing of customer-furnished information with human-readable output. See *supra* Rulings 1 and 2. Furthermore, the Department has specifically ruled that charges for the creation by computer and transmission via telephone lines of airline ticket "images" for printing airline tickets at the customer's remote printer are not subject to sale tax. See L.R. 82-32.

Very truly yours,  
Stephen W. Kidder  
Commissioner of Revenue  
September 28, 1987  
LR 87-12